

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

By the foregoing amendment, claims 7-12 have been added and claim 1 has been canceled. Claim 6 was previously canceled, and claims 2-5 were previously withdrawn. Thus, claims 7-12 are currently pending in the application and subject to examination.

I. **Rejection Under 35 U.S.C. § 112**

The Examiner rejected claim 1 under 35 U.S.C. § 112, second paragraph as being indefinite. The Applicant notes that claim 1 has been canceled.

II. **Rejection Under 35 U.S.C. § 102**

The Examiner rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,990,725 to Allison ("Allison"). The Applicant notes that claim 1 has been canceled. The Applicant notes that Allison does not disclose each and every feature of newly added claim 7.

Applicant's invention as set forth in claim 7 is directed to a supporting structure of a stabilizer to a vehicle body including a twist-deformable torsion bar having a pair of arms at respective ends thereof, at least one connecting portion intermediate said ends, a suspension connected to the ends of the respective arm of the torsion bar, and at least one supporting device connecting the vehicle body to the at least one connecting portion of the torsion bar, wherein the at least one supporting device comprises a ball joint which supports the torsion bar rotatably relative to the vehicle body.

These features of the invention support the torsion bar of a stabilizer in a vehicle body in a way that allows it to freely twist and deform, increasing the comfort level for the rider of the vehicle.

The Examiner asserts that Allison teaches a connecting portion (36) and a suspension (16) connected to the arm of the torsion bar. However, in Allison, the connecting portion (36) is located at the same portion of the torsion bar as the connection to the suspension (16). In contrast, claim 7 includes a suspension directly connected to the **ends** of the respective arms of the torsion bar, a connecting portion **intermediate** the ends of the pair of arms and a supporting device connecting the vehicle body to the connecting portion of the torsion bar, wherein the supporting device comprises a ball joint.

For at least these reasons, the Applicant submits that claim 7 is allowable over Allison.

III. Rejection Under 35 U.S.C. § 103(a)

The Examiner rejected claim 1 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,387,004 to Engel ("Engel") in view of U.S. Patent No. 2,082,509 to Rabe ("Rabe").

Engel teaches a torsion suspension including a torsion bar (42) with a pair of arms (41) connected to the chassis at 3 and coupled to a transverse link (2). The Examiner admits that Engel does not disclose or suggest a supporting device including a ball joint.

The Examiner relies on Rabe for teaching this element. However, Rabe teaches a torsion bar (8) with a ball (6) at the end of the torsion bar (8a). Rabe does not

disclose or suggest a supporting device connecting the vehicle body to the at least one connecting portion of the torsion bar, wherein the connecting portion is **intermediate** ends of a pair of arms at respective ends of the torsion bar, as recited in claim 7.

Thus, neither Engel nor Rabe disclose or suggest a supporting structure of a stabilizer to a vehicle body including at least a supporting device connecting the vehicle body to the connecting portion of the torsion bar, wherein the connecting portion is intermediate ends of a pair of arms at respective ends of the twist deformable torsion bar, and wherein the supporting device comprises a ball joint, as claimed in claim 7.

The Applicant notes that there is no teaching or suggestion to use a ball joint surrounding the end of a torsion bar, as taught by Rabe, in an intermediate connecting portion of a torsion bar, as shown at 3 in Figure 1 of Engel.

For at least these above described reasons, the Applicant submits that claim 7 is allowable over the cited art. As claim 7 is allowable, the Applicant submit that claims 8-12, which depend from allowable claim 7 are also therefore allowable for at least the above noted reasons, and for the additional subject matter recited therein.

With regard to the rejections under §103 in the Office Action, it is also respectfully submitted that the Examiner has not yet set forth a *prima facie* case of obviousness. The PTO has the burden under §103 to establish a *prima facie* case of obviousness. In re Fine, 5 U.S.P.Q.2nd 1596, 1598 (Fed. Cir. 1988). Both the case law of the Federal Circuit and the PTO itself have made clear that where a modification must be made to the prior art to reject or invalidate a claim under §103, there must be a showing of proper motivation to do so. The mere fact that a prior art reference could arguably be modified to meet the claim is insufficient to establish obviousness. The

PTO can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. Id. In order to establish obviousness, there must be a suggestion or motivation in the reference to do so. See also In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984) (prior art could not be turned upside down without motivation to do so); In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1998); In re Dembiczak, 175 F.3d 994 (Fed. Cir. 1999); In re Lee, 277 F.3d 1338 (Fed. Cir. 2002).

In the Office Action, the Examiner merely states that the present invention is obvious in light of the cited references. See, e.g., Office Action at page 5. This is an insufficient showing of motivation.

CONCLUSION

For all of the above reasons, it is respectfully submitted that the claims now pending patentability distinguish the present invention from the cited references. Accordingly, reconsideration and withdrawal of the outstanding rejections and an issuance of a Notice of Allowance are earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is encouraged to telephone the undersigned representative at the number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The fee for this extension may be charged to our Deposit Account No. 01-2300. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with

Application No. 10/774,526
Attorney Docket No. 107335-00109

this communication to Deposit Account No. 01-2300, referencing Attorney Docket No. 107355-00109.

Respectfully submitted,



Sheree T. Rowe
Attorney for Applicants
Registration No. 59,068

Customer No. 004372
Arent Fox PLLC
1050 Connecticut Ave., N.W.
Suite 400
Washington, D.C. 20036-5339
Telephone No. (202) 715-8492
Facsimile No. (202) 638-4810